

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
3:07CV83-3-W  
92cr284-07-P**

MICHAEL T. ROZELLE,	)	
	)	
	)	
	)	
Petitioner,	)	
v.	)	<b>ORDER</b>
	)	
	)	
UNITED STATED OF AMERICA,	)	
	)	
	)	
Respondent.	)	

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**THIS MATTER** comes before the Court upon the Petitioner's Motion to Vacate, Set Aside, or Correct Sentence, filed February 16, 2007.

The Petitioner has filed two previous motions to vacate (case no. 3:97cv205-P on 4/21/97 and successive motion to vacate on 8/10/98) both of which were been denied. Under the Antiterrorism and Effective Death Penalty Act (AEDPA), "a second or successive motion must be certified . . . by a panel of the appropriate court of appeals . . ." 28 U.S.C. § 2255 (1997). Therefore, the Petitioner must first certify his claim with the Fourth Circuit Court of Appeals before he can file his successive claim in the District Court.

**THEREFORE, IT IS HEREBY ORDERED** that Petitioner's Motion to Vacate, Set Aside or Correct Sentence is **DISMISSED** without prejudice as successive.

**SO ORDERED.**

Signed: February 23, 2007



Frank D. Whitney  
United States District Judge

